

110TH CONGRESS
1ST SESSION

S. 1885

To provide certain employment protections for family members who are caring for members of the Armed Forces recovering from illnesses and injuries incurred on active duty.

IN THE SENATE OF THE UNITED STATES

JULY 26, 2007

Mr. REID (for Mr. OBAMA (for himself, Mrs. McCASKILL, Mr. HARKIN, Mr. KERRY, Mr. BAUCUS, Mr. BIDEN, Mr. DURBIN, and Mr. KENNEDY)) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To provide certain employment protections for family members who are caring for members of the Armed Forces recovering from illnesses and injuries incurred on active duty.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Military Family Job
5 Protection Act”.

1 **SEC. 2. PROHIBITION ON DISCRIMINATION IN EMPLOY-**
2 **MENT AGAINST CERTAIN FAMILY MEMBERS**
3 **CARING FOR RECOVERING MEMBERS OF THE**
4 **ARMED FORCES.**

5 (a) PROHIBITION.—A family member of a recovering
6 servicemember described in subsection (b) shall not be de-
7 nied retention in employment, promotion, or any benefit
8 of employment by an employer on the basis of the family
9 member’s absence from employment as described in that
10 subsection, for a period of not more than 52 workweeks.

11 (b) COVERED FAMILY MEMBERS.—A family member
12 described in this subsection is a family member of a recov-
13 ering servicemember who is—

14 (1) on invitational orders while caring for the
15 recovering servicemember;

16 (2) a non-medical attendee caring for the recov-
17 ering servicemember; or

18 (3) receiving per diem payments from the De-
19 partment of Defense while caring for the recovering
20 servicemember.

21 (c) TREATMENT OF ACTIONS.—An employer shall be
22 considered to have engaged in an action prohibited by sub-
23 section (a) with respect to a person described in that sub-
24 section if the absence from employment of the person as
25 described in that subsection is a motivating factor in the
26 employer’s action, unless the employer can prove that the

1 action would have been taken in the absence of the absence
2 of employment of the person.

3 (d) DEFINITIONS.—In this section:

4 (1) BENEFIT OF EMPLOYMENT.—The term
5 “benefit of employment” has the meaning given such
6 term in section 4303 of title 38, United States Code.

7 (2) CARING FOR.—The term “caring for”, used
8 with respect to a recovering servicemember, means
9 providing personal, medical, or convalescent care to
10 the recovering servicemember, under circumstances
11 that substantially interfere with an employee’s abil-
12 ity to work.

13 (3) EMPLOYER.—The term “employer” has the
14 meaning given such term in section 4303 of title 38,
15 United States Code, except that the term does not
16 include any person who is not considered to be an
17 employer under title I of the Family and Medical
18 Leave Act of 1993 (29 U.S.C. 2611 et seq.) because
19 the person does not meet the requirements of section
20 101(4)(A)(i) of such Act (29 U.S.C. 2611(4)(A)(i)).

21 (4) FAMILY MEMBER.—The term “family mem-
22 ber”, with respect to a recovering servicemember,
23 has the meaning given that term in section 411h(b)
24 of title 37, United States Code.

1 (5) RECOVERING SERVICEMEMBER.—The term
2 “recovering servicemember” means a member of the
3 Armed Forces, including a member of the National
4 Guard or a Reserve, who is undergoing medical
5 treatment, recuperation, or therapy, or is otherwise
6 in medical hold or medical holdover status, for an in-
7 jury, illness, or disease incurred or aggravated while
8 on active duty in the Armed Forces.

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